

## **GENERAL TERMS AND CONDITIONS**

### **Clause 1 – Definitions**

1. Rocky Mountain Minerals B.V., with its registered office in Lelystad, the Netherlands, Ch. of Comm. no. 63621371 is referred to as "seller" in these general terms and conditions.
2. The seller's contract partner is referred to as "purchaser" in these general terms and conditions.
3. The term "parties" collectively refers to the seller and the purchaser.
4. The "purchase agreement" is understood to mean the purchase agreement between the parties.

### **Clause 2 Applicability of general terms and conditions**

1. These terms and conditions apply to all quotations, offers, agreements and supplies of services and or goods by or on behalf of the seller.
2. These terms and conditions can be deviated from only if this is explicitly agreed between the parties in writing.

### **Clause 3 - Payment**

1. The full purchase price is always immediately paid in the webshop. If reservations are made, purchasers will be expected to pay a deposit in some cases. In that case, the purchaser will receive proof of reservation and proof of the advance payment.
2. If the purchaser does not pay on time, they will be in default. If the purchaser remains in default, the seller will be entitled to suspend performance of its obligations until the purchaser has fulfilled its payment obligation.
3. If the purchaser remains in default, the seller will proceed to collect the overdue amounts. The costs relating to this collection will be borne by the purchaser. These collection costs are calculated based on the Dutch Extrajudicial Collection Costs (Fees) Decree (*Besluit vergoeding voor buitengerechtelijke incassokosten*).
4. In the event of liquidation, bankruptcy, attachment or suspension of payments on the part of the purchaser, the seller's claims against the purchaser will become immediately due and payable.
5. If the purchaser refuses to cooperate with the seller's performance of the agreement, the purchaser will still be obliged to pay the agreed price to the seller.

### **Clause 4 - Offers, quotations and price**

1. All offers are free of obligation, unless the offer includes a set term for acceptance. If the offer is not accepted within the term set, the offer will expire.
2. The delivery dates stated in the quotation are merely indicative and do not entitle the purchaser to dissolution or compensation if these delivery times are not met, unless the parties have explicitly agreed otherwise in writing.
3. Offers and quotations do not automatically apply to repeat orders. The parties must explicitly agree on this in writing.
4. The price stated in offers, quotations and invoices comprises the purchase price inclusive of the VAT owed and any other government levies owed.

### **Clause 5 - Right of withdrawal**

1. After receiving the order, the consumer has the right to cancel the contract within 14 days without giving any reason (right of withdrawal). The period starts from the moment the consumer receives the (complete) order.
2. The right of withdrawal does not apply, unless otherwise agreed by the parties, to the following contracts:
  - Contracts for the supply of goods that are not prefabricated and whose production is based on an individual choice or decision by the consumer, or that are clearly tailored to the consumer's personal needs.
  - Contracts for the supply of goods that are liable to deteriorate quickly or have a limited shelf life.
3. The consumer can use a withdrawal form provided by the seller. The seller is obligated to make this form available without delay upon request by the buyer.

4. During the reflection period, the consumer must handle the product and packaging with care. He may only unpack or use the product to the extent necessary to assess whether he wants to keep it. If the consumer exercises the right of withdrawal, he must return the unused and undamaged product, with all delivered accessories and – if reasonably possible – in the original shipping packaging, to the seller, following the reasonable and clear instructions provided by the seller.
5. Opened, used, or damaged goods can also be returned under the right of withdrawal (in some cases, compensation for loss of value may be requested).

#### **Clause 6 - Amendment of the agreement**

1. If it becomes apparent during the performance of the agreement that proper performance of the agreement would require changes or additions to the work to be carried out, the parties will amend the contract accordingly in a timely manner writing and in mutual consultation.
2. If the parties agree that the agreement will be amended or supplemented, this may affect the time it takes to perform the agreement. The seller will inform the purchaser of this as soon as possible.
3. If the amendment or supplement to the agreement has financial and/or qualitative consequences, the seller will inform the purchaser of this in advance.
4. If the parties have agreed a fixed price, the seller will indicate to what extent the amendment or supplement to the agreement would lead to an increase of this price.
5. In deviation from the provisions of the third paragraph of this clause, the seller cannot charge additional costs if the amendment or supplement is due to circumstances that can be attributed to the seller.

#### **Clause 7 - Delivery and transfer of risk**

1. As soon as the purchaser has received the items purchased, the risk will transfer from the seller to the purchaser.

#### **Clause 8 - Inspection and complaints**

1. The purchaser is obliged to inspect the items delivered on the date of delivery, but in any case within as short a term as possible. In this context, the purchaser must conduct an inspection to determine whether the quality and quantity of the items delivered are in accordance with the agreements between the parties, or at least whether the quality and quantity meet the requirements that apply to them in the normal course of business.
2. The purchaser must submit complaints regarding damage, shortfalls or loss of the items delivered to the seller in writing within ten (10) business days after the date of delivery of the items.
3. If the complaint is considered well-founded within the set term, the seller will be entitled to either repair the item, deliver the item again or decide not to supply the item at all and send the purchaser a credit note for that portion of the purchase price.
4. Minor deviations or differences in quality, number, measurements or finishing, or deviations or differences that are considered normal in the industry, cannot be used to pursue a claim against the seller.
5. Complaints regarding a certain item will not influence other items or parts to that same agreement.
6. After the items are processed at the seller, complaints will no longer be accepted.

#### **Clause 9 - Samples and models**

1. If a purchaser has been provided with a sample or model, such will be considered to have been provided as a mere indication to which the item to be delivered does not need to be equal. This can be deviated from if the parties have explicitly agreed that the item to be delivered must in fact be equal to the sample or model.
2. If an agreement regards immovable property, the mention of the surface area or other measurements and indications will also be considered to be a mere indication to which the property to be delivered does not need to be equal.

## **Clause 10 – Delivery**

1. Delivery will be made "ex works/ex shop/ex warehouse". This entails that all costs are borne by the purchaser.
2. The purchaser is obliged to accept the items when they are delivered to the purchaser by or on behalf of the seller, or when these items are made available to the purchaser pursuant to the agreement.
3. If the purchaser refuses to accept delivery or fails to provide information or instructions necessary for delivery, the seller will be entitled to store the items at the purchaser's risk and expense.
4. If the items are delivered, the seller will be entitled to charge a delivery fee.
5. If the seller needs the purchaser's details for the performance of the agreement, the delivery period will commence after the purchaser has provided the seller with these details.
6. The delivery period provided by the seller is merely an indication. This is never a strict deadline. If a deadline is exceeded, the purchaser must notify the seller in writing that it is in default.
7. The seller is entitled to make partial deliveries of the items, unless the parties have agreed differently in writing or if no independent value is attributed to partial delivery. If partial deliveries are made, the seller will be entitled to send separate invoices for the partial deliveries.

## **Clause 11 – Force majeure**

1. If the seller fails to meet their obligations pursuant to the agreement due to *force majeure*, or fails to meet them in due time or fails to meet them properly, it will not be liable for the loss or harm incurred by the purchaser.
2. The parties understand the term "*force majeure*" to mean, in any case, any circumstance which the seller could not have taken into account at the time of concluding the agreement and as a consequence of which the ordinary performance of the agreement cannot reasonably be demanded of the purchaser, examples of which include but are not limited to illness, war or risk of war, civil war and civil unrest, acts of war, sabotage, terrorism, power failure, floods, earthquakes, fires, sit-ins, work strikes, lock-out of employees, amended government measures, transport difficulties and other disruptions within the seller's business.
3. The parties also consider *force majeure* to be the circumstance in which the suppliers on which the seller is dependent for the performance of the agreement fail to meet their contractual obligations to the seller, unless such failure can be attributed to the seller.
4. If a situation as described above occurs and the seller consequently cannot meet its obligations to the purchaser, these obligations will be suspended for as long as the seller is unable to meet its obligations. If the situation referred to in the previous sentence has lasted thirty (30) calendar days, the parties are entitled to fully or partially dissolve the agreement in writing.
5. If the *force majeure* situation lasts longer than three months, the purchaser will be entitled to terminate the agreement with immediate effect. The agreement can only be dissolved by registered letter.

## **Clause 12 - Assignment of rights**

1. Rights accruing to a party pursuant to this agreement cannot be assigned without the prior written consent of the other party. This provision has effect under property law within the meaning of Article 3:83(2) of the Dutch Civil Code.

## **Clause 13 - Retention of title and right of retention**

1. The property present at, and items and parts delivered to, the purchaser will remain the property of the seller until the purchaser has paid the full agreed price. Until that time, the seller will be entitled to rely on its retention of title and reclaim the items.
2. If the agreed amounts to be paid in advance are not paid, or are not paid in time, the seller will be entitled to suspend the work until the agreed part previously in default has been paid. This constitutes a creditor's default. In that case, late delivery cannot be used to pursue a claim against the seller.
3. The seller is not authorised to pledge or otherwise encumber the goods that are subject to the retention of title.
4. The seller undertakes to insure the items delivered to the purchaser under retention of title and to keep these items insured against fire and explosion and water damage, as well as against theft. The seller will allow inspection of the policy at the purchaser's first request.

5. If the items have not yet been delivered but the agreed advance payment or price has not been paid in conformity with what was agreed, the seller will have a right of retention. In that case, the item will not be delivered until the purchaser has paid for the item in full and in conformity with what was agreed.
6. In the case of liquidation, insolvency or suspension of payments in respect of the purchaser, the purchaser's obligations will be immediately due and payable.

#### **Clause 14 – Liability**

1. Any liability for loss or damage that arises from or is related to the performance of the agreement is always limited to the amount that is paid in that case by the liability insurance(s) that have been purchased. This amount is increased by the amount of excess according to the relevant policy.
2. The seller's liability for loss or damage due to an intentional act or omission or gross negligence on the part of the seller or their subordinate supervisors is not excluded.

#### **Clause 15 - Obligation to complain**

1. The purchaser has an obligation to directly notify the seller of any complaints about the work performed. The complaint must contain a description of the failure that is as detailed as possible so that the seller will be able to provide an adequate response.
2. If the complaint is well-founded, the seller will be obliged to repair and possibly replace the item.

#### **Clause 16 - Warranties**

1. If the agreement contains any warranties, the following will apply. The seller warrants that the items sold are in conformity with the agreement, that they will function without any defects and that they will be suitable for the purchaser's intended use of them. This warranty applies for a period of two calendar years after the purchaser has received the items sold.
2. The aforementioned warranty is intended to allocate risk between the parties such that the seller will always bear the entirety of the risk and expense of the consequences violating a warranty and so that the seller can never rely on Article 6:75 of the Dutch Civil Code with regard to the violation of a warranty. The provisions of the previous sentence also apply if the purchaser knew of the violation or could have known about the violation by performing an investigation.
3. The aforementioned warranty will not apply if the defect arose due to inexpert or improper use or if the purchaser or a third party – without permission – has made modifications or attempted to make such modifications or if the purchaser has used the item it purchased it for purposes for which it is not intended.
4. If the warranty provided by the seller relates to an item manufactured by a third party, the warranty will be limited to the warranty provided by that manufacturer.

#### **Clause 17 – Intellectual Property**

1. Rocky Mountain Minerals B.V. retains all intellectual property rights – including copyrights, patent rights, trade mark rights, drawing and model rights, etc. – to all items, designs, drawings, written documents, data carriers or other information, quotations, images, sketches, models, scale models etc., unless the parties have agreed otherwise in writing.
2. The client is not allowed to copy the aforementioned intellectual property rights or cause them to be copied, or to show them and/or make them available to third parties, nor is it allowed or use the aforementioned intellectual property rights in any other way without Rocky Mountain Minerals B.V.'s prior written consent.

#### **Clause 18 - Amendment of the general terms and conditions**

1. Rocky Mountain Minerals B.V. is entitled to amend or supplement these general terms and conditions.
2. Changes that are of minor importance may be made at any time.

3. To the extent possible, Rocky Mountain Minerals B.V. will discuss major substantive amendments with the client in advance.
4. Consumers will be entitled to terminate the agreement if fundamental changes are made to the general terms and conditions.

**Clause 19 - Applicable law and competent court**

1. All agreements between the parties are governed exclusively by Dutch law.
2. The Dutch court in the district where Rocky Mountain Minerals B.V. has its registered office has exclusive jurisdiction to hear any disputes between the parties, unless the law mandates otherwise.
3. The applicability of the U.N. Convention on Contracts for the International Sale of Goods is excluded.
4. If one or more provisions in these general terms and conditions are deemed unreasonably onerous in judicial proceedings, the other provisions will continue to apply unabridged.